

IT WAS A BIG COAT OF WHITEWASH THAT GRAND JURY SMEARED ON EVERYTHING.

Commendation for Many Abuses Which Have Long Existed in This Community.

Even The Republican Is Damned With Faint Praise—Full Text of the Remarkable Document—Judge Humphreys' Ad- dress to the Retiring Body.

SHORTLY before 12 o'clock yesterday morning the grand jury filed into the Circuit Court. As the jurors entered the court room there was a rush of attaches and court house habitués, for it was understood that the jurors were to make their final report and that heavy blows, sledge hammer whacks, were to be meted out, whose loud report would convulse these islands for months to come, cause no end of comment, be commended by the many who believe in honest government and damned by the Associated Villains.

Clerk Lucas left his desk; John E. Bush's face radiated sunshine, and even Frederick D. Smith, the late arrival from New York, ceased to be pre-occupied in the weighty duties of his new official position. Lawyers and a mixed audience of the flossam and jetsam of Honolulu society attentively listened for some promised sensation which the inquisitorial body would pitchfork into the light of publicity.

But they were all doomed to disappointment. The report of the grand jury was as mild as a day in the tropics. It commended nearly everything and damned with faint praise even The Republican.

Two indictments were found, one against E. C. Macfarlane and the other against J. P. Hayward. They were indicted for selling liquor at the Hawaiian Hotel Annex and Waikiki Inn, respectively, on Sundays.

The report was read by Foreman E. I. Spalding. At its conclusion Judge Humphreys addressed the jury as follows:

JUDGE HUMPHREYS' ADDRESS TO THE JURORS.

Mr. Foreman and Gentlemen of the Grand Jury:—
The court has listened with rapt attention and profound interest to the reading of the excellent report now rendered by your body. As you are the pioneer grand jury of the island of Oahu, your report will become historical. Not only that, but it will be valuable from a social as well as political point of view. I use the word "political" not in its narrow and restricted sense but in its larger and broader sense. Political in that it affects the entire community.

Enforcement of Law.
The court was particularly impressed with what the grand jury had to observe with reference to the enforcement of law. Our government is divided into three co-ordinate departments: the Executive, the Legislative and the Judicial. It is not for one branch or any part of one branch of the government to usurp or trespass on the powers of the other branches. The Legislative department makes the laws. If the law is unconstitutional it becomes the sworn duty of the courts of the land, assisted by the jury, to enforce those laws, even though the propriety, the fairness or the justice of the laws may be open to question.

"Stranger, tell the Lacedæmonians that we died here in defense of our country." This was the simple inscription to commemorate the heroic and conscious devotion of the faithful band of Leonidas at Thermopylae; and in which a nation of peculiar sagacity and promptitude of mind as well as ardor of soul for liberty thought to express the highest acknowledgment of a deed which every Greek remembers with national pride. Of all that was noble and great in this patriotic act the noblest and greatest seemed to them that the gallant citizens had been obedient to the laws even unto death. It affords an example well worthy of imitation.

Prostitution.
As to the matter of prostitution commented upon by you in your report, I at this time call your attention to the fact that we have in this Territory a law forbidding fornication. Fornication is sexual intercourse between an unmarried man and an unmarried woman, an offense punishable by both fine and imprisonment. It is indeed an anomalous state of affairs that we should have houses of prostitution in this community, under the control of the board of health and to a certain extent the police department, and yet have a provision in our penal code for the punishment of fornication. There is not a woman at Waikiki who is not liable to a criminal prosecution for fornication. Indeed, the very fact that she is a registered prostitute might make a clear case against her if the so-called "Act to Mitigate" is constitutional, which I very much doubt. It may be desirable to have houses of prostitution under the control of the board of health, and to a certain extent under the police department, yet

it should hardly be done in the face of a statute prohibiting fornication without exception.

Insane Asylum.
The court concurs heartily in what you have said to the committee of an insane person to the asylum on the certificate of one physician. A similar law does not exist in any state in the Union. I think it may be said that in nearly every state in the Union the law provides for a careful examination by three or more experts and a trial by jury. You can easily see that if at any time conditions here should come to such a pass that the power to certify to the insanity of a person should be vested in the hands of one individual, and he be a corrupt person, no member of society would be safe. It is a bad state of affairs, but it is a condition for which the physician now in charge is not responsible.

Sale of Alcohol.
Taking into consideration the various elements going to make up the aggregate of crime in this community it requires no argument to convince one that the unrestricted sale of alcohol would be a menace to the peace, safety and good order of the community, and I know of no law that permits its sale in such manner.

Hack Drivers.
What you have said on this subject is true. It is a matter of notorious comment and criticism and one worthy of more serious consideration at the hands of the authorities who have the issuance of hack licenses.

Favoritism by Courts.
This is a matter which, under the circumstances, it was probably proper for you to investigate and as a member of the bar and of the judicial department of the Territory of Hawaii I am glad that you found no sufficient evidence presented to you to enable you to find that the charges made through the press were true. All of the gentlemen who were members of the Hawaiian judiciary when I came here some five years ago are now members of the Territorial judiciary, with the exception of Justice Whitte and Judge Stanley, who were retired after long and honorable careers, and except Chief Justice Judd, who died a few months ago. Like all mortals the chief justice had his weaknesses and his failings, yet when we compare those weaknesses and failings with all that was commendable in him they sink into insignificance. Thus amid the cloudlets of the summer night the full moon rises resplendent, the cloudlets fade away into mist and are forgotten. So with the honored dead; his trifling faults are covered with the success of his virtues. It can be said of the chief justice that so far as the incorruptibility of his integrity was concerned he was a man who, like Enoch, might have walked with God.

As to whether or not favoritism existed in the courts heretofore it may be said that men differed and that they will continue to differ, despite the report of this grand jury. A grand jury report cannot change the opinion of men in matters of that sort.

All departments of government are, at times, subject to public criticism, and it is perhaps better that a good officer should be unjustly criticized than that a bad officer should escape criticism altogether; and if we should take away entirely or limit the right of the press to criticize, that would be the inevitable result. I have in my own personal observation (not here, but elsewhere) seen corrupt and vicious men on the bench able to hold their positions because the press, the public and the bar were afraid to criticize them. Not a few of our local courts, subject to criticism, but even the Supreme Court of the United States has also been the subject of criticism. Charles Sumner, one of the most gifted men ever on the floor of the United States senate, a man who distinguished himself by leading the anti-slavery element, stood on the floor of the United States senate and denounced the Supreme Court of the United States, denounced Chief Justice Taney for the decision he had rendered in the Dred Scott case. So also, only a few years ago when the income tax decision was rendered by the United States Supreme Court political conventions in many states denounced the court and representatives in Congress did the same thing. While perhaps the feelings of the judges were hurt and their sensibilities aroused and touched, the court did not invoke libel proceedings. Senator Edmunds and Mr. Choate, now our minister to England, who appeared in the income tax cases, and other celebrated counsel in the case did not throw up their hands in holy horror and feel that the honor and the virtue of the court or their own honor was at stake because the press denounced the decision as political. It is almost impossible to take up any great daily paper without seeing some criticism on the courts. Every one in public position must expect criticism. The man who escapes is an angel on earth and only needs the fiat of God to make him an angel in heaven. This jury, I dare say, will be criticized for rendering this report. If you had not rendered such a report you would also

have been criticised. One element says you will be damned if you do; another element says you will be damned if you don't. You cannot escape criticism. The man who attempts to get into the current of public favor sooner or later will be engulfed because public sentiment is fickle; nothing is more so. One day it places a man on the highest pinnacle of popular favor; the next day it lays in the gutter of contempt. There is only one thing to do, and that is, duty.

Your report on the whole is a most admirable one. For your untiring labors, for the dignity with which you have demeaned yourselves while in this court room and its annex, and for the service you have rendered to this community the court desires to tender you its heartfelt thanks. You are now discharged, gentlemen, for the term.

FULL TEXT OF THE REPORT OF GRAND JURY.

The following is the report of the grand jury:
Hon. A. S. Humphreys, First Judge, Circuit Court, First Judicial Circuit, Territory of Hawaii.

Sir:—The Grand Jury empaneled and sworn before you on the sixth day of the current month, having concluded their duties bid to render their final report as follows:

Seventeen cases have been brought before this jury by the Attorney General's Department, and examined by us with the result of finding for a true bill in fourteen cases, and no bill in three cases.

This jury has also found two true bills in cases brought to the attention of the jury in your charge of August 6, 1900.

We have investigated, so far as possible, into the subjects referred to in your charge to this jury, and also into various other matters to which our attention has been called, and we have examined numerous witnesses.

Sale of Liquors on Sundays by Hotels and Resorts at Waikiki.

We find that two resorts at Waikiki are operating under special licenses from the Interior Department, a copy of which accompanies this report. These licenses were issued by the Minister of the Interior with the concurrence of the Executive Council of the Republic of Hawaii, under the authority conferred upon him by the Act to Regulate the Sale of Spirituous Liquors. It will be noticed that the privilege is given licensees of selling liquors to guests and their friends, which certainly permits of a liberal interpretation.

The subject of sales on Sundays under these licenses was not considered by the Executive Council such sale being subject to the provisions of Section 25 of the aforesaid Act to Regulate the Sale of Spirituous Liquors, etc., viz:

"Any holder of a license who shall sell or retail any spirituous liquor or permit or suffer the same to be drunk in his house or premises on Sunday shall be liable to a penalty not exceeding two hundred dollars, but this section shall not apply to the ordinary supplies furnished to bona fide boarders and lodgers in the house or premises."

The fact that liquor has been sold at these resorts at Waikiki on Sundays, to persons who can in no way be considered bona fide boarders or lodgers, although probably guests or their friends, was voluntarily admitted by the proprietors, their statements coinciding to the effect that they were not aware of any illegal act and thought that they were within the privileges conferred by their licenses. This jury believes that these places have incurred large expenditures and have acted openly with the full knowledge of the authorities; that they did not intentionally violate the law as to sale of liquor on Sundays, and the evidence before us tends to show that the legalizing such sale by respectable hotels and resorts at Waikiki, to guests and their friends would result in lessening illicit trade and drunkenness. The jury also believes that as liberal treatment is consistent with the public welfare should be extended by the Government to respectable hotels and resorts.

It is not in our province, however, to ignore existing laws, through any question as to their propriety. We found that, under a strict interpretation of the law, liquor has been illegally sold on Sundays by the Hawaiian Hotel Annex and Waikiki Inn, and we have brought indictments against these places accordingly.

We called to find that police protection had been promised or guaranteed to these resorts although we made careful inquiry.

The statement of Mr. H. N. Almy, with reference to the police, referred to in your Honor's charge of August 8, 1900, to this jury, was investigated, the witness claiming a misunderstanding of his remarks, and testimony was to the effect that he used the word "authorities" and not "police."

Houses of Prostitution at Waikiki.

There is a colony of five buildings enclosed by a high board fence, located at the Ewa side of Waikiki, owned by a local company. These buildings contain 225 rooms and are at the present time occupied by 147 females, of which 135 are Japanese. These inmates are

STORM-TOSSED SAILORS HAVE AN INNINGS.

They Tell Their Grievances in Judge Estee's Court.

LIBEL AGAINST THE DARK EMPIRE.

WARRING AND REBELLIOUS FACTIONS STILLED BY THE GREAT JURIST.

Contest of The Voice With Matter and How it Ended—Incidentally Something About Exceptions.

An insufficient quantity of inferior pork; tea, diluted not with Irish milk but rain water caught from cloud-bursts on the briny deep; a dearth of corn bread; shipping papers, calloused hand seamen, George A. Davis and E. B. McClanahan occupied the attention of United States District Judge Estee yesterday afternoon. And how well the able jurist handled all these things and the warring elements let this story tell:

The judge was hearing the libel of Christopher Collins and other seamen against the bark Empire, a vessel flying the American flag and commanded by a Yankee skipper with fierce chin whiskers as lusty in growth as that of Mars. The sailormen libeled the bark for wages amounting to \$27.78 apiece and \$65 for want of food on the voyage from Newcastle, Australia, to this port.

The stenorial voice of E. B. McClanahan represented the ship and her owners, while George A. Davis waged legal warfare for the men. Often the roaring voice and the Davis outburst collided, much to the consternation of United States Marshal Ray and Deputy United States Marshal Hendry. When the voice roared and Davis sang and became tempest-tossed, a few dignified words from the court restored peace and the waves of turbulence were stilled.

The voice was profuse in exceptions. Where, when and by whom these exceptions were to be heard passed all human understanding, for Chief Justice Frear is vacationing on Hawaii and Judge Estee occupies Judge Silliman's court room, and the United States Circuit Court is in California. But the voice illustrated, if it illustrated anything, the force of habit. It evidently thought that it was addressing District Magistrate W. L. Wilcox.

"Mr. McClanahan," said Judge Estee, suavely, at one stage of the proceedings, "I will allow you all the exceptions that you want, only make them at the proper time."

And still the voice would not be still.

Much evidence was adduced to show that the bill of fare on the Empire was far inferior to that served in a Chinese eatery in Honolulu. The men complained about the pork. It wasn't in their judgment, confined from the plains of Kansas. One brawny sailor declared that it was rotten; another that, as poor as it was, it was served in infinitesimal small quantities. The corn bread, too, and the sailor's voice felt a whisper, when he said, "It wasn't in our judgment, confined from the plains of Kansas. One brawny sailor declared that it was rotten; another that, as poor as it was, it was served in infinitesimal small quantities. The corn bread, too, and the sailor's voice felt a whisper, when he said, 'It wasn't in our judgment, confined from the plains of Kansas. One brawny sailor declared that it was rotten; another that, as poor as it was, it was served in infinitesimal small quantities. 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